



COAL INDIA LIMITED  
MARKETING DIVISION  
KOLKATA

CIL/M&S/E-Auction / 207

Date: 24.07.2024

**NOTICE**

**Sub: CIL E-Auction Scheme 2022(updated version as on 25.07.2024)**

It is hereby informed that certain modification in the existing Single Window Mode Agnostic e-auction scheme namely CIL e-auction scheme 2022 is being introduced. The comparative statement showing modified clause vis a vis existing provision of CIL e-auction scheme 2022 is mentioned below:

Clause	Existing clause in CIL e-auction Scheme 2022	Modified clause
4.2.5	Second stage of bidding: The provisionally successful bidder of first stage shall be provided with a window of 6 hours to register their choice of mode(s) & source(s). In case the cluster contains more than one Rail and/or Road loading points, the bidder shall also be required to register their order of preference of all the loading points for Rail and Road mode	Second stage of bidding: The provisionally successful bidder of first stage shall be provided with a window of 4 hours to register their choice of mode(s) & source(s). In case the cluster contains more than one Rail and/or Road loading points, the bidder shall also be required to register their order of preference of all the loading points for Rail and Road mode

The above modification will be applicable for the e-auctions to be conducted by CIL/coal companies on and from 25.07.2024.

The updated CIL e-auction scheme 2022 is enclosed.

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24/07/24

General Manager(M&S-Oprn/Comm)

Distribution:

1. Executive Director(M&L)
2. GM (M&S): ECL/BCCL/CCL/NCL/WCL/SECL/MCL : with request to upload the notice and updated scheme in respective website
3. GM, NEC
4. GM (System), CIL: with request to upload the notice and updated scheme in CIL website under Marketing & Sales
5. HOD (e-procurement) CMPDIL: with request to notice and updated scheme
6. MSTC/MJunction: with request to upload the notice and updated scheme

# **CIL e-Auction Scheme 2022**

(Updated version as on 25-07-2024)

**Background:** The policy for e-auctioning of coal through a single window mode agnostic offer has been introduced in terms of MoC guidelines circulated vide letter no. CPD-23011/18/2021-CPD dated 21.03.2022 on approval from Cabinet Committee of Economic Affairs (CCEA).

**Objective:** E-auction of coal will facilitate easy availability of coal through a simple, transparent and consumer friendly online system to all sections of coal Buyers across the country.

## **Terms & Conditions**

### **1. Eligibility:**

1.1 Any Indian Buyer (viz. individual, partnership firm, companies etc.) can participate in e-Auction for procurement of coal.

1.2 Before the bid is accepted, the bidder shall pay in full all sums of money due to the seller in regard to any previous supply of coal to the bidder. If there are any arrears, the seller shall be entitled not to consider such bids.

### **2. Registration:**

2.1 Before participation in the e-Auction, a prospective Buyer shall be required to get itself / himself registered with the Service Provider appointed by the CIL / Coal Companies for the purpose, by submitting an application in the prescribed format available on the Website of the Service Provider. The application shall be made along with the required documents such as PAN Number, GSTIN Certificate, Passport size photograph, etc. as prescribed by the Service Provider. This one time Registration can be done either online, or at the notified front office(s) of the Service Provider.

2.2 After the registration, all-prospective Buyers will be provided an auto generated "Unique User ID" & a "password" based on which they can log in. Details of the registration process with the Service Provider will be available in their website.

2.3 The Service Provider shall issue "Photo Identity Card" to their registered Bidders duly authenticating the identity & signature, indicating a "Unique Registration Number" allotted to them. The "Unique registration number" of the registered Bidders shall be communicated to the Coal Companies by the Service Provider.

2.4 Only one registration will be done against one PAN number. However, based on more than one valid GST registration certificate, more than one registration against a PAN Number can be considered. In such cases, the details of GST number will be indicated in each 'Photo Identity Card'.

2.5 **Bid Security:** All registered bidders shall be required to submit in advance Bid security in the form of a non-interest bearing deposit at the rate as decided from time to time with service provider for participation in e-auction

Bid Security may be paid upfront by way of e-transfer

or,

The Bidder shall have the option to furnish the Bid Security in the form of Bank Guarantee (BG).

(i) Such BG is required to be submitted separately for each subsidiary to the Service Provider, if the Bidder intends to participate in e-auction for more than one subsidiary.

(ii) The Service Provider shall arrange to send the scanned copy of the BG to the respective Coal Co. through e-mail to expedite taking SFMS confirmation of the BG by the Coal Co.,

(iii) The BG should be drawn on any SFMS enabled schedule Bank located at the HQ of the concerned coal company or such place as specified by the coal company and to be furnished as per the timeline notified by the coal company.

(iv) The validity of BG shall be six months from the date of e-auction initially. It will have to be kept valid throughout the pendency of lifting and to be further extended till discharged/returned by the Coal Company after final settlement of dues if any.

(v) SFMS Confirmation of the BG shall be taken by respective Coal Co. and shall intimate the Service Provider about the same. However, in spite of effort if the coal company fails to get required SFMS conformation before the scheduled auction date, the bidder shall not be eligible to participate in the bidding and the reason for non-confirmation of BG shall be attributed to the bidders.

(vi) After completion of auction the original BG of the successful Bidders will be sent to concerned subsidiary along with the bid sheet by the Service Providers where supply of coal will start only after payment of the coal value.

(vii) In the event of failure of the Bidder to deposit the coal value for lifting of coal or any other reason as per the scheme the BG will be encashed by the concerned subsidiary.

(ix) BG against which no quantity could be successfully bided shall be returned to the bidder by the Service Provider.

(x) BG format shall be provided by the respective Coal Company.

2.6. Process Fee: In addition with the bid security, the Bidders shall also be required to submit a Process Fee, in cash through e-transfer, prior to participation in e-auction at the rate of Rs.20/- per ton for the intended bid quantity, inclusive of applicable taxes, with service provider for participation in e-auction. The Process fee shall be non-refundable to the extent of provisionally successful bid quantity in the First stage of bidding process.

The respective coal company will issue invoices for the Processing fees, so received.

2.7 As long as Bid security & Process Fee (both in the form of cash) is available in the registered buyer's account with the Service Provider, the bidder can participate in e-Auction conducted by any coal company of CIL through the Service Provider. In other words, it may be a global Bid security for participating in e-Auction conducted by the Service Provider. However, such option will not be available in case company wise BG is submitted by the Bidder in place of cash bid security.

2.8 The bid security and the Process Fee shall have to be deposited by the bidder by 23:59 hrs, of the day prior to the scheduled date of auction for participation. For example: If the auction is scheduled on 4th April, the bidder can deposit Bid Security & Process fees (both in cash) till 23:59 hrs. of 3<sup>rd</sup> April.

### 3. Notification:

3.1 Coal companies shall notify the event of e-auction, minimum 7(seven) days in advance,

through display on the Company's notice board and putting the same on the Coal Company's websites for wide publicity. The program will be intimated to the Service Provider accordingly for hoisting the same on their websites also.

3.2 The auction shall be transport mode agnostic with default mode as Rail. However, coal may be lifted by the bidder through Road mode/other modes depending upon their choice and suitability without paying any additional charges and discount on account of basic price of coal.

The minimum bid quantity shall be 50 tonnes and bid increment in quantity shall also be in the multiple of 50 tonnes. Moreover, the provisional(first stage) and final allotted quantity(second stage) shall also be not less than 50 tonnes. However, for movement by Rail mode, the bid quantity has to be in multiple of rake fit quantity.

3.3 The Buyer should satisfy itself / himself about the Rake fit stations / destinations from the Railways before participation in e-Auction for movement by rail.

Non-acceptance of the programme, even after the option exercised under extant Railway rules, on account of rake-fit stations / destinations being not accepted by the Railways shall be treated as a failure of the Buyer leading to forfeiture of related bid security.

#### 4. Auction Methodology:

##### 4.1 Offer structure

4.1.1 The auction will be held in two stages. First stage will identify the successful bidder through a mode agnostic e-auction process and second stage will settle the mode(s) & source(s) of supply on the basis of seniority of the bid of the first stage and choice of the bidder.

4.1.2 The offer will be provided by the coal company as a cluster of despatch points. The cluster may include one or more CIL Railway loading point(s) and one or more feeding collieries(Road loading points). Preferably the offer in a cluster be limited to range of +/- 1 grade. However, in cases where the range of grade of coal dispatch through a siding is more wider, the coal company may decide to offer the coal for a wider range of grades within a cluster.

The mines, having no transportation arrangement to CIL Railway siding, may be offered as a single source cluster with mode of dispatch by Road. However, the bidder will be free to transport coal through Road-cum Rail mode on his own arrangement and responsibility.

4.1.3 The capacity of each loading point against the cluster offer are also to be indicated in the offer separately. The total capacity of the loading points shall be equal or more than the total offer quantity of the cluster.

4.1.4 Auction will be held in a mode agnostic system for the offer of the cluster on the representative grade and size. Dispatch points/sources of coking coal/non-coking coal/washery product shall have to offered in separate cluster.

The representative grade of the cluster shall be the lowest grade of the feeding Road despatch points and declared grade of the siding(s) if any.

If the size of the coal offered (Steam/ROM) is identical for all the loading points under the cluster, the same can be used as representative size of the cluster. In case, more than one size is offered within the cluster, ROM may be considered as the representative size.

## 4.2. Bidding Process:

4.2.1 The registered Bidders shall be required to record their acceptance after login, of the Terms & Conditions of the e-Auction before participation in the actual Bidding Process.

4.2.2 Before participating in e-Auction, Bidders are to satisfy themselves with the quality of coal being offered.

4.2.3 Prospective Bidders are entitled to Bid for the quantity to the extent of amount of Bid Security plus Process Fee (Bid security + Process fee), as applicable, which is available with the Service Provider in the Bidder's account at the time of Bidding.

### 4.2.4 First stage of bidding:

4.2.4.1 The Buyers while Bidding shall quote their "Bid price" per tonne in Indian Rupee as base price for coal/coal products on FOR/FOB colliery basis, exclusive of other charges like statutory levies, surface transportation charges, sizing/beneficiation charges, taxes, cess, royalty, SED, & any other charges as will be applicable at the time of delivery. These charges as well as freight etc. shall be on the Buyers' account.

4.2.4.2 The Bidder has to Bid for a price equal to or above the Floor price to secure consideration in the concerned e-Auction.

4.2.4.3 The date, time and period of e-Auction as notified in advance including closing time on portal of Service Provider shall be adhered to but for the event of Insuperable Conditions. However, the closing time of e-Auction will be automatically extended up to last Bid time, plus 5 minutes, so that opportunity is given to other Bidders for making an improved Bid on that item.

The Improved Bid for the above purpose will be as follows:

- a. During Normal e-Auction period of two hours, any one of the following three:
  - Price Increased (in the multiple for Rs. 20/ton) without increment in bid quantity
  - Quantity increased (in the multiple of 50 tonnes) without increase in Price
  - Both Price increased (in the multiple for Rs. 20/ton) and Quantity increased (in the multiple of 50 tonnes)
- b. During Extended e-Auction period, (beyond normal e-auction period of two hours) any one of the following two:
  - Price Increased (in the multiple for Rs. 50/ton) without increment in bid quantity
  - Both Price increased (in the multiple for Rs. 50/ton) and Quantity increased (in the multiple of 50 tonnes)

4.2.4.4 While maintaining the secrecy of Bidder's identity, the web site shall register and display on screen the lowest and the highest successful Bid price at that point of time. The system will not allow a Bidder to Bid in excess of his entitled quantity as per the amount corresponding to bid security + process fee. Each bidder is entitled to register single bid for each cluster. However, the bidder may register improved bid at any point of time during the auction.

4.2.4.5 Following criteria would be adopted in deciding the successful Bidders:-

- (a) Precedence will be accorded to the highest Bid price in the descending order (H1, H2, H3 and so on) as long as the offered quantity is available for allocation.
- (b) If two or more Buyers Bid the same highest price, precedence for allotment will be accorded to the Buyer who has placed the Bid for the higher quantity.

- (c) In case two or more Buyers Bid the same price and the same quantity, precedence will be given to the Buyer who has accorded his Bid first with reference to time.

The Bid Seniority of the successful bidders shall also be decided following the above criteria.

4.2.4.6 On completion of the first stage of bidding, the provisionally successful bidder shall be intimated about winning bid quantity, bid price and bid seniority along with the date and time of Second stage of auction process, by the service provider.

#### 4.2.5 Second stage of bidding:

The provisionally successful bidder of first stage shall be provided with a window of 4 hours to register their choice of mode(s) & source(s). In case the cluster contains more than one Rail and/or Road loading points, the bidder shall also be required to register their order of preference of all the loading points for Rail and Road mode.

The provisionally successful bidders of first stage of bidding may register any one of the following choices:

SI.	Choice	1st option	2nd option	Order of preference of Rail loading points	Order of preference of Road loading points of cluster
A	No choice (bid < 4000 tonnes)	Road (by default)			The order of Road loading points of notification shall be the default of preference
	No Choice (bid $\geq$ 4000 tonnes)	Rail (by default)		The order of Rail loading points of notification shall be the default of preference	
B	Rail	Rail	-	√	
C	Rail/Road	Rail	Road	√	√
D	Road/Rail	Road	Rail	√	√
E	Road	Road	-		√

*Choice of preference shall not be required if the Cluster is having only one Road Loading point or one Rail loading point.*

Guideline for submitting choice by bidder:

- a. The bidders registering mode of Choice as Rail only (B above) should have successful bid quantity of more than 4000 tonnes or in multiple of rake fit quantity (4000 tes). In case the bid quantity is not in multiple of rake fit size and the bidder opt for (B) above, quantity will be allocated in multiple of 4000 tonnes (rake load factor) and the equivalent Bid Security for the residual quantity for which rake cannot be formed shall be refunded.
- b. For the bidder not registering any choice (A above),
  - i. In case bid quantity is 4000 tonnes or more, the default mode will be Rail and order of Rail sources in auction notification shall be considered for allocation. Allocation shall be made in multiple of 4000 tonnes (rake fit size) and the equivalent Bid Security for the residual quantity for which rake cannot be formed shall be refunded.
  - ii. In case bid quantity is less than 4000 tonnes, the default mode shall be Road and order of Road sources in auction notification shall be considered for allocation.

- c. The bidders should compulsorily register their order of preference for all the loading points of Rail and Road mode, as the case may be. The same will be ensured by the system.
- d. It is mandatory for the bidder having bid quantity less than 4000 tonnes (rake fit) to register their choice to get preferred order of preference of road loading point, else default Road mode will be considered with order of preference of Road sources of auction notification. Likewise, bidder having bid quantity 4000 tonnes or more and not registering choice in second stage of bidding shall be allocated coal from Rail sources as per order of loading points in auction notification.
- e. Once a bidder submits his choice following the above guideline, Bid Security will not be liable to be forfeited in case coal could not be allotted (wholly/partially) due to non-availability of source-wise offer quantity.

4.2.5.1 On the basis of the bid seniority and the choice of mode and loading points registered by the bidders, the mode of supply of coal along with the source (in case of multiple Rail and Road loading points) will be settled through an algorithm.

4.2.5.2 The logic of the algorithm will be as under:

- Allocation of the quantity loading point wise will be based on seniority of the bid and choice of mode. In case of multiple loading points within a mode the order of preference of loading points provided by provisionally successful bidder of first stage of auction will be considered. However, the total allocated quantity on any individual loading point shall be to the extent of the capacity of evacuation of that loading point.
- For the customers who would not register any choice, for bid quantity 4000 tonnes or more, Rail mode will be considered as the choice of supply. In case of multiple Rail loading points, the sequence of Rail loading points in auction notification will be considered as the order of preference in such case.

For bid quantity less than 4000 tonnes, Road mode will be considered as mode of supply and sequence of Road loading points in auction notification will be considered as the order of preference in such case.

The allocation of mode and loading points will be done in the following manner

- The bid having the highest seniority will be allocated first considering order of mode and preference of loading points.
- Once the allocation for the senior most bid is made, allocation for the second senior most bidder will be taken up and so on.
- Allocation of individual loading points, both Rail and Road, will be made to the extent of evacuation capacity indicated in the offer.
- Allocation of quantity in any Road dispatch point shall be minimum 50 tonnes for individual bidder.

After the above processes, if some quantity of the bidder remains unallocated, equivalent Bid security will be refunded to the concerned bidder by the service provider.

## 5. Post e-Auction process:

5.1 Each successful Bidder will be intimated through e-mail I SMS by the Service Provider on

the same date after the closure of e-Auction. However, it will be the responsibility of the Bidder to personally see and download the result displayed on website, on the same date after close of e-Auction.

5. 2 Determination of coal supplying price:

- a) From the bid price, % premium over the notified price of the representative grade shall be derived.
- b) In case the grade of the despatch point is different from that of the representative grade, the percentage premium over notified price of the representative grade will be applied on the notified price of the grade of despatch point to arrive at bid price of the respective source/dispatch point. The final bid price, so arrived, will be rounded off to next higher integer.
- c) In case Steam coal is allotted for auctions held on the representative size of ROM coal, the % premium derived will also be applicable over the price differential between ROM & Steam coal.
- d) The successful bidder will be depositing the balance coal value (over and above the Bid security submitted) and this will include applicable transportation charge, sizing charge, any other charge.
- e) Although the auction will be held on the representative grade and size, the successful bidder shall be bound to accept coal for any grade and size from the allotted source of the cluster.

5. 3 The successful Bidders after the e-Auction will be required to deposit coal value with the concerned Coal Company, within a period of ten working days, after the date of closing of second stage of e-Auction. Ten working days would be reckoned as applicable to the respective Subsidiary Coal companies' office where the payment/ deposit is required to be made.

5.4 Equivalent amount of Bid Security of successful Bidder corresponding to successful Bid quantity, shall be blocked and will be transferred to Coal Company by the Service Provider along-with the Bid sheet in respect of successful Bidders.

5.5 In case there is change in declared grade (due to revision in grade declaration notification) of the dispatch point in the interim period from the date of bidding and date of dispatch, the customer may opt out from taking coal in the changed grade by submitting application within 5 days of such notification.

In case of opt out by the bidder, the equivalent bid security to the extent of proportionate bid quantity from the date of grade notification will be refundable.

6. Terms of payment:

6. 1 The coal value to be deposited in advance by the successful Bidders shall be computed and deposited after making provision for the Bid Security amount for the successful Bid quantity already transferred by the Service Provider to the subsidiary Company. In other words, the coal value to be deposited and Bid Security amount together, shall be equivalent to the 100 % coal value. *In case the Buyer fails to deposit coal value to the extent of 100% of successful bid quantity within the specified timeline, the corresponding Bid security for the portion of failed quantity will liable for forfeiture.*

*The coal value backed quantity will be considered as Booked Quantity and further commercial calculations will be done on the basis of Booked Quantity by the Bidder.*



6.2 Bid Security amount shall not be treated as an adjustment towards the coal value but would remain as a 'Security Deposit' for performance of the Bidders towards completion of the said transaction.

6.3 The above Security Deposit (as converted from the Bid Security amount) would be adjusted as coal value, only after completion of lifting of coal covered under coal value paid, excluding Security Deposit. However, in the event of any default in performance by the Bidder, the provision of forfeiture of the 'Security Deposit' [as converted from the Bid Security (inclusive of taxes)] as stipulated, would be applicable.

6.4 In case of road supplies, once the coal value is deposited by way of e-transfer or Demand Draft /Pay Order, drawn in favour of the concerned Coal Company, along-with the debit advice issued by the Bank, certifying that the DD/pay order has been issued, by debiting the account of the concerned Buyer, Sale/Delivery orders shall be issued within seven days by the Coal Company after encashment of Buyer's financial instrument/receipt of payment.

In case of successful Bidders, if the coal value is deposited for less than the allotted Quantity but not below 50% of the allotted quantity or, 50 tonnes whichever is higher, the Coal Company shall accept the payment for the said amount and forfeit the Bid Security for the failed quantity. However, if the Buyer fails to deposit the coal value for at least 50% of the allotted quantity or 50 tonnes whichever is higher than the entire Bid Security of the allotted quantity shall be forfeited.

In case of Sale of washery reject, wherein disposal of the product of washery requires prior permission from CCO in terms of washery Reject Policy of GOI, coal companies shall have option to issue Sale/Delivery order after receipt of relevant CCO order/permission subject to payment of coal value.

6.5 However, a successful Bidder whose allotted quantity is only 50 tonnes will be allowed to deposit coal value for minimum 90% i.e. 45 tonnes within the stipulated period of 10 days without which the amount shall not be accepted. In such event they shall be permitted to deposit the balance fractional amount, limited to 10 % of the total coal value of 50 tonne, within the subsequent period of 3(three) working days. In spite of this, if they fail to deposit full coal value of 50 tonne (minimum Bid quantity), Bid Security for entire 50 tonne shall be forfeited.

6.6 In case of rail borne supplies, there shall be two options available. While submitting program, the Bidder at his option can deposit 100 % BG on the prescribed format from the Buyers own account or else may deposit 100% amount through e-transfer or Demand Draft /pay order, drawn in favour of the concerned Coal Company, along with the debit advice, issued by the Bank certifying that the DD/Pay Order has been issued by debiting the account of the concerned Buyer.

6.7 In case of Buyers who have booked their rail programme through BG, a notice for deposition of coal value by way of e-transfer, DD/Pay order, will be displayed on the notice board of the Coal Company, at least three working days in advance before the expected date of offer to the Railways for allotment. The Buyer will be accordingly required to deposit DD/Pay Order along with the debit advice to the tune of BG involved in the programme, within 48 hours of such notice.

In the event of non-deposition of 100% coal value by the Bidder in terms of Clause-6.7 above, the consent given against rake programme will be withdrawn by the Coal Company and Bid Security as per e-Auction scheme will be forfeited.

6.8 The successful buyer shall pay any additional sum which may become payable by the seller

under any statutory provision over and above the amount claimed in the invoice. The successful bidder will also be entitled to a refund of the sum of taxes to the seller on account of reduction, if any of the statutory levies claimed in the invoice by the seller, on receipt/adjustment of the said amount by the Seller.

7. Procedure of Coal Delivery

By Road:

7.1 Coal Company shall issue Sale / Delivery Orders to the successful Bidders in terms of Clause 6.4 after realization of payment.

7.2 The validity period to complete lifting of coal by road shall be 45 days from the date of issue of Sale/Delivery Order.

By Rail:

7.3 The seniority of Buyers in case of rail borne supplies shall be guided by the seniority list as provided by the Service Provider based on Buyer's Bids.

7.4 The quantity allotted against each rake is indicative quantity only and delivery shall be made on the basis of actual weightment by the Seller at the loading end.

7.5 The validity period for seeking allotment of rake in case of rail supplies shall be 45 days from the date of issue of consent by the Coal Company. Loading validity of the allotted rakes shall be 90 days from the date of allotment. The rakes which are not loaded within the loading validity will lapse and the Bid Security for the relevant quantity will be refunded. It is clarified that after rakes are sanctioned by Railways and offer is made by Coal Company to Railways, ensuring transport arrangement (rake allotment) as per bid for scheduled loading towards performance of contract is the sole responsibility of bidder. However, after allotment, in case, the allotted rakes are not loaded within the above loading validity, the rake will lapse and the Bid Security for the relevant quantity will be refunded.

7.6 Although loading will be the responsibility of the Coal Company, but to avoid any complaint regarding over-loading, under loading and quality, the Buyer himself or his authorized representative may supervise loading at the loading point. The authorized representative must carry valid authority letter along with photocopy of Identity Card issued by Service Provider.

7.7 Overloading & Under loading:

i) Any penal freight for overloading charged by the Railways for any consignment shall be payable by the Purchaser.

ii) Any idle freight for under-loading below the stenciled carrying capacity, as shown on the wagon, for non-coking coal GCV exceeding 5800 Kcal/Kg and for coking coal Steel Grade I, Steel Grade II, Washery Grade I, Washery Grade II, Semi-coking Grade I, Semi-coking Grade II and washed Coal; below the stenciled carrying capacity, as shown on the wagon, plus two (2) tonnes for all other Grades of Coal shall be payable by the Seller.

iii) Idle freight resulting from under loading of wagon, as per point no. (ii) shall be adjusted in the bills. Idle freight shall be reckoned as:

a) the difference between the freight charges applicable for the stenciled carrying capacity, as shown on the wagon, less the freight payable as per actual recorded weight of coal loaded

in the wagon GCV exceeding 5800 Kcal/Kg, Steel Grade 1, Steel Grade II, Washery Grade I, Washery Grade II, Semi-coking Grade I, Semi coking Grade II and washed coal : Or

- b) the difference between the freight charges applicable for the stenciled carrying capacity, as shown on the wagon, plus two (2) tones less the freight payable as per actual recorded weight of coal loaded in the wagon for all other Grades of Coal.

7.8 The weighment at the loading end shall be final and binding for all commercial purposes.

7.9 Compensation for short delivery/lifting

If the Level of Delivery by the Seller, or the Level of Lifting by the Purchaser falls below 90% of the Booked Quantity i.e. coal value backed bid quantity, the defaulting Party shall be liable to pay compensation to the other Party for such shortfall in Level of Delivery or Level of Lifting, as the case may be ("Failed Quantity" in tonnes). The compensation/penalty will be product of Failed quantity below 90% of Booked Quantity(i.e. coal value backed quantity) and Bid security/ton.

The above compensation/penalty will be subject to clause no. 11.2(Insuperable conditions), clause 7.5(lapsed quantity due to non supply of rakes within 90 days of allotment). The penalty/compensation will be applicable in case balance unlifted quantity is equal or more than a truck load(9 tonnes) for Road mode and a rake load(4000 tonnes) for Rail mode, as the case may be.

The portion of quantity of less than 90% of the Booked quantity, not lifted by the bidder due to the reason attributable to Bidder will be liable for penalty and forfeiture of proportionate Bid Security will be done for the corresponding quantity.

The portion of quantity of less than 90% of the Booked quantity, not supplied by the Seller due to the reason attributable to Seller will be liable for penalty at the applicable rate of Bid Security/ton.

8. Refund of Bid Security for Unsuccessful Bidders:-

In case of unsuccessful Bidders, The Bid Security shall be refunded fully/partially by the Service Provider after the auction is over in the following situations on the Bidders request:

- In case the bidder is unsuccessful in the auction
- In case the bidder, successful in first stage of auction, submits his choice & order of preference following the guideline mentioned in 4.2.5 but coal could not be allotted(wholly/partially) due to non-availability of source-wise offer quantity or non multiple of rake fit size/rake load factor, as the case may be.

However, if no such request is received the Service Provider will retain the Bid Security for participation in e-Auction in future.

9. Forfeiture of Bid Security for Buyers/ Penal provision for Seller:

Forfeiture of Bid Security for Buyers:

The Bid Security submitted by the successful Bidders will be liable for forfeiture in the following cases:

9.1 Deleted.

9.2 Deleted.

9.3 If after completion of e-Auction, a successful Bidder fails to make payment(in full or part) for the coal value of Bid quantity including all other charges within the stipulated time, the proportionate Bid Security equivalent to the failed quantity shall be forfeited subject to the provisions at Clause 6 and/or,

9.4 If the successful Bidders do not lift 90% of the Booked Quantity within the stipulated validity period, the proportionate Security Deposit (as converted from the Bid Security amount) or the

applicable BG amount for the unlifted quantity i.e. failed quantity below the level of 90% of Booked Quantity would be forfeited subject to clause 7.5, 7.9 & 11.2. Forfeitable Bid Security amount can be deducted from coal value also instead of BG encashment, as per choice of bidder.

Such forfeiture, however, would not take place if the Coal Company has failed to offer full or part of the successful Bid quantity within the validity period. In such cases again, no forfeiture would take place if the balance quantity is less than a truck load/rake load.

9.5 If the Buyer cancels the order/Rake after booking, the applicable Bid Security or the applicable BG amount(for portion of quantity of the cancelled rakes below 90% of Booked Quantity) shall be forfeited for the rake/order cancelled.

9.6 After rakes are sanctioned by Railways and offer is made by Coal Company to Railways, ensuring transport arrangement (i.e. rake allotment) as per bid for scheduled loading towards performance of contract is the sole responsibility of bidder and any failure regarding allotment of rake will lead to forfeiture of bid security. However, in case allotted rake gets lapsed due to non supply of rake by Railways within the validity period, such lapsed quantity will not be liable for penalty calculation on either side.

Penal provision for Seller:

9.7. Penalty at the rate of applicable bid security/ton will be applicable to the Seller(coal company) in case of failure to supply of allotted quantity to the bidder(for the portion of quantity below 90% of Booked quantity) for the reason attributable to the Seller only, subject to clause 11.2, clause 7.5 and clause 7.9 and other applicable provisions of the Scheme document.

10. Refund of Coal value:

The balance coal value of the unlifted quantity after the expiry of the validity period for supply of coal and completion of required commercial formalities shall be refunded subject to forfeiture of Bid Security if required, in terms of the forfeiture clause & other provisions as above.

11. General Terms & Conditions:

11.1 The coal procured under e-Auction is for use within the country and for Export. However, in case of export the onus of complying any law/government rule/regulation/statutory guideline regarding export of coal shall lie only with the buyer/exporter.

11.2 All terms and conditions of Scheme are subject to Insuperable Conditions as applicable.

Insuperable Conditions:

The term “Insuperable Conditions” as used in this e-auction scheme shall mean any act, circumstance or event or a combination of acts, circumstances and/ or events which wholly or partially prevents or delays the performance of obligations by any Party (“Affected Party”) and if such act, circumstance or event or combination thereof is not reasonably within the control of and not caused by the fault or negligence of the Affected Party, and provided that such act, circumstance or event or combination thereof falls within one or more of the following categories including:

- (a) flood, inundation of mine, drought, lightening, cyclone, storm, earthquake or geological disturbances, eruption of gases, subsidence and such natural occurrences;
- (b) explosions, mine fire and other fire, contamination of the atmosphere by radioactive or hazardous substances;
- (c) civil disturbance such as riot, terrorism etc.;
- (d) industry wise /nation-wide strikes in the sector in which either Party operates in;

- (e) any Applicable Law, ordinance or order of the Central or State Government, or any direction of a statutory regulatory authority that restricts performance of the obligations hereunder;
- (f) any epidemic/pandemic;
- (g) the enactment, promulgation, amendment, suspension or repeal of any Applicable Laws after the commencement of lifting validity i.e. for Rail mode from the date of allotment and for Road mode from the date of issuance of Delivery/Sale order ; and/ or
- (h) any delay or direction or order on the part of the Government of India or relevant State Government or denial or refusal to grant or renew, or any revocation, or modification of any required permit or mining lease or governmental approvals including but not limited to those related to land acquisition or environment/ forest clearance provided that such delay, modification, denial, refusal or revocation was not due to a cause attributable to the Affected Party; provided that a Insuperable Conditions shall not include within its purview, any economic hardship, equipment failure and/ or breakdown other than as specifically set forth above.

#### Burden of Proof

The burden of proof as to whether any Act related to Insuperable Conditions has occurred shall be upon the Affected Party claiming the occurrence or existence of such Insuperable Conditions.

#### Effect of Insuperable Conditions

The Affected Party who is rendered wholly or partially unable to perform its obligations because of an Insuperable Conditions, shall be excused from performance limited to the extent performance is so affected by Insuperable Conditions, provided that:

- (a) within 15 (fifteen) Business Days after the occurrence of the inability to perform due to a Insuperable Conditions, the Affected Party provides a written notice to the Non-Affected Party of the particulars of the occurrence, including an estimation of its expected duration and probable impact on the performance of its obligations hereunder, and continues to furnish periodic reports with respect thereto to the other Party at an interval of every 15 (fifteen) days during the period of an Insuperable Conditions till completion of lifting/loading validity;
- (b) the Affected Party shall use all reasonable efforts to continue to perform its obligations hereunder and to correct or cure, as soon as possible, the Insuperable Conditions;
- (c) the suspension of performance shall be of no greater scope and no longer duration than is reasonably necessitated by the Insuperable Conditions;
- (d) the Affected Party shall provide the Non-Affected Party with prompt notice of the cessation of the Insuperable Conditions giving rise to the excuse from performance and shall thereupon resume normal performance of obligations under this Agreement with utmost promptitude;
- (e) the non-performance of any obligation of either Party that was required to be performed prior to the occurrence of an Insuperable Condition shall not be excused as a result of such subsequent Act related to Insuperable Conditions;
- (f) the occurrence of an Insuperable Condition shall not relieve either Party from its obligations to make any payment hereunder for performance rendered prior to the occurrence of the Insuperable Condition or for partial performance hereunder during period of subsistence the Insuperable Condition;
- (g) the Insuperable Condition shall not relieve either Party from its obligations to comply with Applicable Laws; and
- (h) the Affected Party shall exercise all reasonable efforts to mitigate or limit damages to the Non-Affected Party on account of its non-performance due to the Insuperable Condition
- (i) Non acceptance of Fiery coal by Buyer and non supply of Fiery coal by the Seller from the concerned source
- (j) Change of grade of coal, with due notification, of the concerned source during the Supply/Validity period.

11.3 Bidders must always ensure to keep their email address valid. In any case Buyers cannot be absolved from fulfilling the responsibility of compliance of any of the terms and conditions herein including payment terms due to non-receipt of emails from the Service Provider.

11.4 Bidders must be extremely careful to avoid any error in Bidding (whether typographical or otherwise) and they are fully responsible to check and rectify their Bid before submitting their Bid into the live e-Auction floor by clicking the "Bid" button. During the auction if the incremental Bid price is more than 50% of the immediate preceding Bid price, then the system will seek a reconfirmation from the Bidder before the Bid is registered.

11.5 There is no provision for Bidding in decimals. The Bidder shall be solely responsible for all consequences arising out of the Bid submitted by him (including any wrongful Bidding by him) and no complaint /representation will be entertained by the Service Provider/Coal Company in this regard.

11.6 The decision of the Director-In-Charge of Marketing of CIL / Coal Company in matters related to this e-Auction shall be final and binding on the Bidders / Buyers.

11.7 Change of name:

In case of change of name of the bidder between obtaining successful bids to closure of the transaction, the following documents shall have to be submitted by the bidder for examination and decision by the coal company-

A. For Companies-

1. Certificate of Incorporation pursuant to Change of Name
2. GSTIN certificate with new name
3. PAN with new name

B. For proprietorship & partnership firms-

1. Relevant affidavit sworn in before Magistrate declaring the change of name
2. Newspaper publication regarding change of name of the company

The old name of bidder shall be mentioned along with new name in the record of coal company.

Coal company shall inform the auction service provider regarding such change of name for updation in the database regard.

Consumer shall have to fulfill its all obligations during the process of change of name and thereafter.

11.8 Refusal on account of non-suitability and /or sub-standard quality for the allotted quantity of coal shall not be acceptable. Notwithstanding above the buyers will have the option of third party sampling facility as detailed below:

11.8.1 The Third Party sampling facility shall be extended as an option to the buyers.

11.8.2 Notwithstanding anything to the contrary contained herein, the Buyer shall be required to give his option on whether he proposes to avail third party sampling in accordance with the terms hereof or not during bidding at the e-auction platform. Such information shall be provided by the Service Provider to the respective Coal Co. along with the bid sheet.

11.8.3 Buyers opting for third party sampling can avail such facility as per following conditions:

(i) The facility shall be extended at the Delivery Point only and such third party sampling shall be undertaken throughout the period of lifting in accordance with the procedure for third party sampling for non- power sector as per Schedule I of this scheme.

(ii) If for any reason whatsoever, the third party sampling opted but cannot be conducted in accordance with the procedure for third party sampling for non- power sector as per Schedule I, Sampling and analysis to be carried out by the Seller in presence of the purchaser at the Delivery Point in accordance with the modalities for joint sampling as noted in Schedule I. However, failure of the purchaser to be present will not invalidate or be a ground for disputing the sampling and analysis carried out by the seller.

(iii) If for any reason whatsoever, the third party sampling/sampling by Seller cannot be conducted in accordance with the procedure for sampling for non - power sector as per Schedule I, the supplies will be treated in the manner as in case of buyers not desirous of third party sampling.

(iv) Buyers opting for third party sampling shall submit a financial coverage towards upgradation of coal arising out of third party sampling for the amount decided by the Coal Co. considering the likelihood of upgradation as per third party sampling based on available trends.

Such financial coverage shall be provided as following depending on whether Bid Security has been submitted in the form of cash or BG.

(v) If Bid Security in the form of cash

(a) Coal value shall be deposited considering the Bid Security amount i.e. coal value to be deposited and Bid Security amount taken together shall be equivalent to the 100% coal value as per clause 6.1 of the scheme.

(b) The differential amount as mentioned in 11.8.3(iv) above shall be furnished by Demand Draft/Pay order/e-transfer, referred to as cash prior to signing of tripartite agreement.

(vi) If Bid Security in the form of BG

(a) In case of submission of Bid Security in the form of BG, the successful bidder shall deposit the applicable coal value without any adjustment of Bid Security as per clause 6.1.

(b) No additional financial coverage shall be required if the amount of BG for Bid Security covers the differential amount as per 11.8.3(iv)

(c) In case of shortfall in financial coverage as per 11.8.3(iv) for availing third party sampling, BG or cash shall be furnished over and above the BG amount for Bid Security.

(d) SFMS confirmation shall be taken by the respective coal company. In case of any default in the BG/non receipt of SFMS confirmation of BG, the concerned buyer shall not be allowed the third party sampling facility for supplies against the relevant e-auction event.

(e) BG furnished for financial coverage towards third party sampling results and also the BG for Bid Security used as financial coverage for third party sampling results shall be for minimum six months initially. It will have to be kept valid throughout the pendency of lifting and to be further extended till discharged/returned by the Coal Co. after final settlement of dues if any.

(vii) The Buyer shall also provide an indemnity bond (format as per schedule II), indemnifying

that shortfall in payment if any arising out of result of third party analysis shall be paid within 2 working days of such demand by the coal company.

(viii) Coal Company would be entitled to realize any outstanding amount from any other coal supply /payment etc. of the Bidder from any of the subsidiaries of CIL including NEC or by any other means whichever is available to the coal company.

(ix) For availing the facility of third party sampling signing of tripartite agreement as per format available with Coal Company and other required formalities shall be required to be completed within a period of ten working days, after the date of closing of e--auction. Ten working days would be reckoned as applicable to the respective Subsidiary Coal Company's office.

(x) 50% share of the cost of third party sampling shall be borne by the purchaser in terms of the tripartite agreement. Such payment shall be made by the purchaser directly to the third party agency.

(xi) Where the third party sampling and analysis is undertaken and the same leads to variations in grade via-a-vis declared grade as on the date of lifting, the adjustment/payment by way of debit/credit note shall be done in the following manner: -

(xii) The initial invoice shall be raised based on declared grade and notified price at the time of lifting plus percentage premium over notified price of representative grade of cluster. This invoice shall be subject to adjustment pursuant to third party sampling analysis.

In case the analysis result is different from the declared grade, the bid price shall be calculated by applying the percentage premium (over notified price of the representative grade of the cluster arrived in the auction) on the notified price of the revised grade of despatch.

The differential amount between initial invoice and the payable amount after third party sampling analysis shall be adjusted/paid through debit/credit note as the case may be within seven days after reconciliation of final results.

In case of issue of Debit note, the differential price with all applicable taxes and levies shall be payable.

In case of issue of credit note, adjustment/refund of differential price along with Goods & Services Tax (GST) shall be made as applicable. Any credit in respect of other taxes and levies, be adjusted/refunded if and when received by the Seller.

11.8.4 Notwithstanding the above, it is clarified that in case of coking coal, if pursuant to the third party sampling by a Third Party Agency, the test results establish that the Grade of Coal supplied falls outside the categorization stipulated in Table of the notification dated 24th January, 2019 issued Ministry of Coal or as modified from time to time, then the supplied coal shall be deemed to be non-coking coal. Such non-coking coal shall be graded on GCV bands and the grade for such non-coking coal shall be established on the GCV band within which it falls.

11.8.5 Bidders who did not opt for third party sampling at e-auction platform would not be entitled to avail the said facility at any time during the period of lifting under the said e-auction event.

11.8.6 Notwithstanding anything to the contrary contained herein, in the event that the Purchaser does not opt for third party sampling, it shall be obligated to pay, throughout the period of lifting, the applicable bid price and the other applicable charges in respect of the allocated Grade of Coal and shall not, in any way be entitled to benefit from or rely on the results of third party sampling availed by any other purchaser of Coal.



11.9 Coal Company / Service Provider reserve the right to cancel the sale of coal under this e-Auction from any source / location in part or whole at any stage at its sole discretion without assigning any reason thereof and no party shall have any right whatsoever to raise any claim in that regard on that count.

11.10 CIL/Coal Company reserves their rights to amend/modify and revise the terms and conditions contained herein in full or in part at any point of time and no party shall have any right whatsoever to raise any claim in that regard on that count.

11.11 While the sale under e-auction is independent both parties shall be entitled to claim and recover from the other any excess or differential tax and statutory levies as provided in clause 6.9 at any time within a period of 3 years from the date on which the sum becomes recoverable. Both parties shall have a lien on any sums of money belonging to the other, which may come to their possession or control to the extent of the sum recoverable from the other.

11.12 In the event of any dispute, Bidder / Buyer is necessarily required to represent in writing to the General Manager/HoD (Marketing & Sales) of the concerned Coal Company, who would deal with the same in a period of one month from such representation. Thereafter, if required the matter be determined by the Director-In-Charge of Marketing of the concerned Coal Company. Any interpretation of any clause of this will be subject to clarification by CIL, which will be deemed as firm and final.

11.13 Revision of bid price (payable price) in case of revision in notified price of bid grade of coal/change in grade shall be as per grade declaration.

11.13.1 The following modalities for charging the price in the event of change in grade/Change in notified price after bidding:

(i) In case of revision in declared grade of supply due to regradation after the auction, the bid price shall be calculated by applying the percentage premium (over notified price of the representative grade of the cluster arrived in the auction) on the notified price of the revised grade of despatch.

(ii) In case there is a change in notified price due to revision in price notification after the auction, the bid price shall be higher of the (a) & (b) below:

(a) bid price calculated by applying the percentage premium (over notified price of the representative grade of the cluster arrived in the auction) on the revised notified price of the supplying grade.

(b) bid price calculated by applying the percentage premium (over notified price of the representative grade of the cluster arrived in the auction) on the pre revised(original) notified price of the supplying grade.

11.13.3 In case of any increase in bid price due to revision of notified price as explained above, the bidder shall deposit within the time notified by Coal Co. The additional amount for the balance quantity pending to be delivered as on the effective date of revision. In case of non-receipt of the additional amount from the Bidder, the quantity to be dispatched shall be reduced to the extent of dues and Bid Security shall be forfeited towards such reduced quantity.

11.13.4 Any differential taxes arising out of revised bid/notified price shall be payable by the Bidder.

11.14 The buyer shall be responsible for compliance of e-way bill for which the required information shall be provided by the respective coal company.

11.15 Compliance of all laws/rules/regulation by any authority shall be responsibility of Buyer and coal company/CIL shall remain fully indemnified in this regard under any circumstances.